

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of
Van Ee et al.

Attorney Docket
PH23,409

Serial No.: 09/217,414

Group Art Unit: 2151

Filed: December 21, 1998

Examiner: Ho, T.

Title: CLUSTERING OF TASK-ASSOCIATED OBJECTS FOR EFFECTING
TASKS AMONG A SYSTEM AND ITS ENVIRONMENTAL DEVICES

Honorable Commissioner of Patents and Trademarks
Washington, DC 20231

APPLICANT'S BRIEF ON APPEAL

Sir:

A Notice of Appeal having been faxed on December 5, 2002, the following is Applicant's
Brief:

(1) Real Party in Interest

The real party in interest is the assignee, U.S. Philips Corporation, a Delaware Corporation. Koninklijke Philips Electronics N.V., a corporation of The Netherlands, is the ultimate parent of Serial No. 09/217,414.

(2) Related Appeals and Interferences

There are no appeals or interferences known to the appellant or the assignee which will directly be affected by or have a bearing on the Board's decision in this appeal.

(3) Status of Claims

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This appeal is from the decision of the Examiner dated September 10, 2002, finally rejecting claims 1-30 which are all the claims now pending in this application.

(4) Status of Amendments

An amendment was not filed after the final rejection of September 10, 2002.

(5) Summary of Invention

The present invention is directed to tasking systems supporting user interfaces for displaying objects, the displayed objects enabling user access to resources that provide for effecting tasks among the system and devices of the systems' environment (e.g., VCR, DVD, etc). Referring to Figure 1, an embodiment is illustrated of an implementing mechanism 100 (e.g., remote control unit). The implementing mechanism 100 comprises various resources for effecting tasks among a tasking system and environmental devices, based on object selection(s). The implementing mechanism 100 includes tasking system software 116 which is coupled with processing facilities 102 to run thereon. The tasking system software 116 supports clustering operations respecting such objects so as to enhance effecting of the associated tasks, both adaptively and dynamically.

(6) Issues

The issues presented include (1) whether Claims 1-6, 10-15, 17-27 are properly rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,288,716 to Humpleman et al.; (2) whether Claim 30 is properly rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman et al.; and (3) whether Claims 7-9, 16 and 28-29 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman et al. in view of U.S. Patent No. 6,130,726 to Darbee.

(7) Grouping of Claims

For the purpose of this appeal, claims 1-20 and 27-30 stand or fall together, controlled by independent Claim 1. Independent Claims 21-26 each stand by themselves.

(8) Arguments

Issue 1 Whether Claim 1 is properly rejected under 35 USC Section 102(a) as being anticipated by Humpleman et al. '716.

First Argument

As stated on pages 2-3 of the Final Office Action mailed September 10, 2002 ("Final Office Action"), Humpleman et al. '716 is described in the following manner:

...a tasking software system (a mechanism, line 14 column 2) includes a state tracking subsystem (ICON variation representing a particular state of the home device, line 28-29 column 10) supports (provide, line 38 column 10) context determination (particular state, line 38, column 10), a cluster formulation subsystem (software and/or hardware saving the particular steps taken by a user while interacting, line 18-19 column 22) formulates clusters (macro, line 30 column 21), each cluster has selected objects (macro file 1210, Fig. 15), being responsive (macro generation 1204, Fig. 15) to context (create macro 1202, Fig. 15), a cluster presentation subsystem (the home device's macro list, line 39, column 22) supports (is saved as, line 38 column 22) the formatting and presentation of task-associated objects (macro file 1210, Fig. 15) of an active cluster (macro name button, line 40-41 column 22)...

Claim 1 recites: "the state tracking subsystem supports context determination; the cluster formulation subsystem formulates clusters, each cluster comprising selected objects, such formulation being responsive to context..."

When addressing the state tracking subsystem clause of Claim 1, the Examiner views Humpleman et al. '716 as teaching that "context" as used in "the state tracking subsystem supports context determination" is the particular state of the device. (See Col. 10, lines 29-31, of Humpleman et al. '716 which give examples of different states being whether a DVCR is playing, rewinding, etc.). When discussing the cluster formulation subsystem clause of Claim 1 ("the cluster formulation subsystem formulates clusters...such formulation being responsive to context"), the Examiner states "each cluster has selected objects (macro file 1210, Fig. 15), being

responsive (macro generation 1204, Fig. 15) to context (create macro 1210, Fig. 15)". Here, despite the fact that the term "context" is used consistently by the Applicants in Claim 1, the Examiner states that context is defined differently as the particular state of the device and, alternatively, the macro generation step in Humpleman et al. '716. Therefore, Applicants respectfully submit that the Examiner is using two different definitions of the term "context" as used in Claim 1 when making the rejection.

Humpleman et al. '716 in column 21, lines 64-67 and column 22, lines 1-10, states the following:

For example, FIG. 15 depicts the creation of a preset macro 1200 according to one embodiment of the invention. As depicted in FIG. 15, when a create macro button 1202 on a respective HTML page of a home device is selected, a macro generation process 1204 begins to execute. Execution of the macro generation process 1204 causes a set of user selected device parameter values 1208, selected from the home device's parameter list 1206, to be saved to a macro file 1210. The file 1210 is assigned a unique macro name 1212 and saved on the home device. The macro name 1212 is saved as a macro name button on the home device's macro list HTML page 1214. Thereafter, a user may select the macro name button, causing the respective macro file 1210 to be executed.

Humpleman et al. '716 disclose that the "macro generation process 1204" and execution of the macro file 1210 are both initiated (or "selected") by the operator. In addressing Claim 1, the Final Office Action has pointed out that "context" is the state of the device when addressing the state tracking subsystem limitation. Therefore, when discussing the cluster formulation subsystem limitation, for the Final Office Action to be consistent, "context" should be used in the same manner. (See MPEP Chapter 2131, under 35 U.S.C. Section 102, "[t]he elements must be arranged as required by the claim, but this is not an ipsissimis verbit test, i.e. identity of terminology is not required." In re Bond, 15 USPQ2d 1566 (Fed. Cir. 1990). Therefore, in performing an element-by-element anticipation analysis, In re Bond does not allow the same element of a reference to be used in two different ways to meet different elements of the claim). However, "context" is not being used in the same manner since Humpleman et al. '716 show that the macro file formulation and execution are both responsive to operator initiation or selection rather than to the state of the device as described by the Final Office Action. Therefore, Applicants further submit that Humpleman et al. '716 could not teach the "formulation being responsive to context" as recited in Claim 1.

On page 9 of the Final Office Action in the Response to Arguments section, the Examiner further states " 'create macro' 1202 is not referred to context. 1202 and 1204 of Fig. 5 in Humpleman reference are used to show the steps of creating macro. This macro, a combination of user selected device parameter values, is saved and would be executed at a later time." The Applicants respectfully calls the Examiner's attention to page 3, lines 2-3, of the Final Office Action where the Examiner states "being responsive (macro generation 1204, Fig. 15) to context (create macro 1202, Fig. 15)". Therefore, Applicants maintain that Examiner is attempting to use two different elements of Humpleman et al. '716 to meet the single "context" element as used in Claim 1.

Second Argument

Claim 1 further recites "...the cluster presentation subsystem supports the formatting and presentations of task-associated objects of an active cluster responsive to context..."

When addressing the cluster formulation subsystem clause of Claim 1, the Final Office Action has defined macros to be the "clusters" of Claim 1 with the Parameter Values in the macro file 1210 as being the "objects" of Claim 1. On page 9 of the Final Office Action in the Response to Arguments section, the Examiner states "macro file 1210 is not the object. The objects are Parameter Values, which together make up the macro file 1210 (Fig. 15)...lines 11-49 column 22 of Humpleman reference teaches the macro is stored on the respective home device as a button. The user can executed the button to perform a typical sequence of steps to control a home device, or he/she can perform each single step using a non-macro button."

In operation, as discussed in column 22, lines 1-16 of Humpleman et al. '716, the operator selects from the Parameter List 1206 and saves the selections under a macro name as Parameter Values in a macro file 1210. The macro names are displayed on a macro list HTML page 1214. However, the limitations of Claim 1 are not met by Humpleman et al. '716 because Claim 1 recites the "formatting and presentations of task-associated objects of an active cluster". Using the Examiner's definition of elements, if the Parameter Values are objects, they are not presented as required by Claim 1; instead, the macros, which the Examiner is using to represent

the clusters, are presented to the operator in the form of HTML page 1214 and not the Parameter Values (i.e., objects). Therefore, the limitations of Claim 1 are not met.

Further, in Humpleman et al. '716, either 1) a button is executed as a macro and the task-associated objects are not presented (as discussed above) or 2) each step is performed using a non-macro button and the situation is an individual object without a objects being presented in a cluster. Either way, all of the elements of Claim 1 are not met.

Issue 2 Whether Claim 21 is properly rejected under 35 USC Section 102(a) as being anticipated by Humpleman et al. '716.

Claim 21 recites "the cluster formulation subsystem reformulates said clusters based on changes in said context". Humpleman et al. '716 do not disclose this element.

Issue 3 Whether Claim 22 is properly rejected under 35 USC Section 102(a) as being anticipated by Humpleman et al. '716.

Claim 22 recites "a mechanism positioning system for determining the environment position of the implementing mechanism, said mechanism positioning system recognizing changes in the environment of the implementing mechanism, and said mechanism positioning system contributing to the determination of said context for the tasking software system." Humpleman et al. '716 do not disclose this element.

Issue 4 Whether Claim 23 is properly rejected under 35 USC Section 102(a) as being anticipated by Humpleman et al. '716.

Claim 23 recites "said context determination including detecting changes in ambient physical conditions". Humpleman et al. '716 do not disclose this limitation.

Issue 5 Whether Claim 24 is properly rejected under 35 USC Section 102(a) as being anticipated by Humpleman et al. '716.

Claim 24 recites "wherein said context determination includes using at least one algorithm capable of changing a context determination." Humpleman et al. '716 do not disclose this limitation.

Issue 6 Whether Claim 25 is properly rejected under 35 USC Section 102(a) as being anticipated by Humpleman et al. '716.

Claim 25 recites "wherein said context determination includes monitoring historical usage patterns of a user". Humpleman et al. '716 do not disclose this limitation.

Issue 7 Whether Claim 26 is properly rejected under 35 USC Section 102(a) as being anticipated by Humpleman et al. '716.

Claim 26 recites "said cluster formulation operating substantially continuously". Humpleman et al. '716 does not disclose this limitation.

Conclusion

It is respectfully urged that the rejection of all claims is erroneous and that all claims are allowable. Wherefore, it is respectfully requested the decision of the Examiner finally rejecting Claims 1-30 be reversed in all respects.

Respectfully submitted,

Date: March 4, 2003

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